IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH.

Crl. Misc. No. 59809-M of 2006

DATE OF DECISION : 15.12.2006

Ashok Kumar

.... PETITIONER

Versus

State of Punjab

..... RESPONDENT

CORAM :- HON'BLE MR. JUSTICE SATISH KUMAR MITTAL

Present: Mr. Anil Chaudhary, Advocate, for the petitioner.

Mr. N.S. Gill, AAG, Punjab.

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Petitioner Ashok Kumar has filed this petition under Section 482 of the Code of Criminal Procedure for quashing of the order dated 5.9.2006, passed by Judge, Special Court, Sangrur, whereby the application filed by the petitioner for release of jeep No. RJ 18-T-0330 on sapurdari has been dismissed.

The aforesaid vehicle was impounded by the police on 20.7.2003 as contraband were recovered, when Ashok Kumar son of Subhash Chand was driving it. Accordingly, FIR No. 132 dated 20.7.2003 under Section 15 of the NDPS Act, was registered at Police Station Bhawanigarh, District Sangrur. On 18.5.2004, the trial court ordered to release the vehicle on sapurdari to the petitioner, who is its registered owner. He was not the accused in the case. The petitioner was directed to ensure that the vehicle is produced in the court on every date of hearing. Thereafter, the petitioner failed to produce the vehicle in the court and it was again impounded on 29.8.2006. The application filed by the petitioner for release of the vehicle on sapurdari has been dismissed by the trial court vide impugned order.

Counsel for the petitioner contends that the petitioner is not the

accused in the aforesaid FIR and he is the registered owner of the vehicle in question. He contends that conclusion of trial will take a long time and in case, the vehicle is not released, it will damage its condition. He further submits that the petitioner is ready to give an undertaking that he will not sell or change its condition during the pendency of the case and as and when the court requires the aforesaid vehicle, he will produce the same in the same condition before the concerned court. Counsel further relied upon a decision of the Supreme Court in ***Sunderbhai Ambalal Desai*** v. ***State of Gujarat,*** 2003 (1) RCR (Crl.) 380 and decision of this Court in ***Roop Chand and Company*** vs. ***State of Punjab,*** 1996 (1) RCR (Criminal) 401.

I have heard counsel for the parties.

Undisputedly, the trial in the aforesaid case is still pending before the trial court. No useful purpose will be served, if the vehicle is allowed to remain in the police station and it will also result into its damage.

Thus, keeping in view the aforesaid facts and the law laid down by the Apex Court in ***Sunderbhai Ambalal Desai's case*** (supra) and in view of the undertaking given by the petitioner, as indicated above, it will be in the interest of justice if the said vehicle is ordered to be given on sapurdari to the petitioner.

Accordingly, this petition is allowed, the impugned order dated 5.9.2006, passed by Judge, Special Court, Sangrur, is set aside and jeep No. RJ 18-T-0330 is ordered to be released on sapurdari to the petitioner on his furnishing personal bond in the sum of Rs. 2,00,000/- with one surety in the like amount and the undertaking to the effect that he will not sell or change the condition of the above said vehicle and as and when the trial court issues notice for its production in the court, the petitioner will produce the same in the same condition at his own cost before the concerned court. He shall also furnish his address, on which notice is to be issued by the trial court for production of the vehicle in the court.

December 15, 2006 **(SATISH KUMAR MITTAL)**
ndj **JUDGE**